

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

ED BUTOWSKY,

Plaintiff,

v.

DAVID FOLKENFLIK, et al.,

Defendants.

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CIVIL ACTION NO.

4:18-CV-00442-ALM

DECLARATION OF LAURA LEE PRATHER

I, Laura Lee Prather, hereby declare pursuant to 28 U.S.C. § 1746:

1. My name is Laura Lee Prather. I am over the age of twenty-one (21) years and am fully competent to make this declaration. The facts stated in this declaration are within my personal knowledge and are true and correct.

2. I am a partner at the law firm of Haynes and Boone, LLP and lead counsel for Defendants in the above-captioned lawsuit. I am fully competent to make this declaration, and all the facts set forth herein are based on my personal knowledge and are true and correct.

A. Butowsky's Production of Documents.

3. I have overseen Defendants' discovery efforts in this case. Butowsky has produced 299 documents to date in the above-captioned case. Butowsky represented twice that he has completed his document production, first in an email from his counsel and second to this Court in his response to NPR's motion to compel. *See* Ex. 15, Defs.' Mot. to Compel, Dkt. 85, at 3 (Email from S. Biss dated 12/18/19) ("I confirm that Plaintiff's document production was

completed this morning. You now have all of Plaintiff's documents."); Pl.'s Resp. to Mot. to Compel, Dkt. 90, at 1 ("Plaintiff has produced all responsive documents in his possession and control.").

B. Background of Production of Documents from the Aaron Rich Case.

4. As part of their discovery efforts, Defendants served a subpoena on Aaron Rich, the plaintiff in a related lawsuit against the Plaintiff here, Ed Butowsky. *See Rich v. Butowsky*, Case No. 1:18-cv-00681-RJL (D.D.C) (the "*Aaron Rich Case*"). The facts of the *Aaron Rich Case* overlap substantially to those in this lawsuit; specifically, both cases center around the death of Aaron Rich's brother, Seth, and Mr. Butowsky's involvement in conspiracy theories following Seth Rich's death. The subpoena to Aaron Rich requested, among other things, documents that Ed Butowsky produced in the *Aaron Rich Case*.

5. On March 10, 2020, after Butowsky rescinded his prior objection to Aaron Rich's production of documents, counsel for Aaron Rich produced 526 documents to NPR. On April 15, 2020, after confirming that Butowsky would also rescind his objection to NPR receiving documents he had previously marked as Attorneys' Eyes Only, counsel for Aaron Rich produced an additional 1,316 documents.

C. Specific Examples of Documents Butowsky Failed to Produce in this Case.

6. Exhibit 1 to this declaration is a true and correct copy of a document originally produced by Butowsky in the *Aaron Rich Case*, and received from Aaron Rich, bearing production number Butowsky 0000340. It is an example of newly-obtained evidence showing Butowsky's possession of pre-publication drafts of the Fox News article. NPR requested Butowsky to produce this document in the instant case, (*see, e.g.*, NPR's Second Set of Requests for Production of Documents, Request No. 35), but he failed to do so.

7. Exhibits 2 and 3 to this declaration are true and correct copies of documents originally produced by Butowsky in the *Aaron Rich Case*, and received from Aaron Rich, bearing production numbers Butowsky 0000337 and Butowsky 0003209. They are examples of newly-obtained emails between Butowsky and Wheeler, Zimmerman, and others at Fox News trying to manage the fall-out from the retracted Fox News article. NPR requested Butowsky to produce these documents in the instant case, (*see, e.g.*, NPR's First Set of Requests for Production of Documents, Request Nos. 3, 19), but he failed to do so.

8. Exhibit 4 to this declaration is a true and correct copy of a document originally produced by Butowsky in the *Aaron Rich Case*, and received from Aaron Rich, bearing production number Butowsky 0000655. It is an example of newly-obtained evidence showing Butowsky's email correspondence with the Rich family. NPR requested Butowsky to produce this document in the instant case, (*see, e.g.*, NPR's Second Set of Requests for Production of Documents, Request Nos. 5-6), but he failed to do so.

9. Exhibit 5 to this declaration is a true and correct copy of a document originally produced by Butowsky in the *Aaron Rich Case*, and received from Aaron Rich, bearing production number Butowsky 0000867. It is an example of newly-obtained evidence showing Butowsky's email correspondence with Sy Hersh, a "source" for Butowsky's evidence that Seth Rich was involved in hacking the DNC. NPR requested Butowsky to produce this document in the instant case, (*see, e.g.*, NPR's Third Set of Requests for Production of Documents, Request No. 2), but he failed to do so.

10. Exhibit 6 to this declaration is a true and correct copy of a document originally produced by Butowsky in the *Aaron Rich Case*, and received from Aaron Rich, bearing production number Butowsky 0004879. It is an example of newly-obtained evidence showing

Butowsky's communications with Rod Wheeler about the Trump Administration. NPR requested Butowsky to produce this document in the instant case, (*see, e.g.*, NPR's First Set of Requests for Production of Documents, Request No. 3), but he failed to do so.

D. Butowsky Failed to Produce Call and Text Records.

11. NPR also subpoenaed AT&T for Butowsky's call and text records. Exhibit 7 to this declaration is a true and correct copy of an excerpt of documents received from AT&T showing Butowsky's call records for December 2016 through June 2017. These call records show that between December 2016 and June 2017, Butowsky spoke with Zimmerman 571 times, Wheeler 424 times, and Housley 23 times. NPR requested Butowsky to produce this information in the instant case, (*see, e.g.*, NPR's First Set of Requests for Production of Documents, Request No. 33), but he failed to do so.

12. Exhibit 8 to this declaration is a true and correct copy of an excerpt of documents received from AT&T showing Butowsky's text records for December 2016 through June 2017. Butowsky exchanged 480 text messages with Malia Zimmerman. NPR requested Butowsky to produce this information in the instant case, (*see, e.g.*, NPR's First Set of Requests for Production of Documents, Request No. 11), but he failed to do so.

13. Exhibits 9 and 10 to this declaration are true and correct copies of the text messages Butowsky has produced to or from Zimmerman, in either this case or the *Aaron Rich Case*, bearing production numbers Butowsky 0001816 and Butowsky 0005566. NPR requested Butowsky to produce this information in the instant case, (*see, e.g.*, NPR's First Set of Requests for Production of Documents, Request No. 11), but he failed to provide complete sets of these messages.

E. Additional Email Addresses and Encryption Services Butowsky Used.

14. Through reviewing documents produced by third parties, NPR has identified the following email addresses used by Butowsky: ebutowsky@gmail.com; ed@chapwoodinvestments.com; ebutowsky@icloud.com; Edbyc9293@yahoo.com; googie18@aol.com; Butowsky32@gmail.com; edwardbutowsky@gmail.com; and googie32@protonmail.com.

15. Exhibits 11 and 12 are true and correct copies of examples of emails Butowsky produced from his chapwoodinvestments.com email address.

16. Butowsky produced sixteen email strings sent to or from his icloud.com account, including communications from Zimmerman and Wheeler. Butowsky also produced nine icloud.com emails with the Rich family. Exhibits 13 and 14 are examples of email communications Butowsky produced from his icloud.com email account.

17. Butowsky has failed to produce any emails from the following addresses: Edbyc9293@yahoo.com; googie18@aol.com; Butowsky32@gmail.com; edwardbutowsky@gmail.com; and googie32@protonmail.com. While Butowsky failed to produce any emails from these addresses, NPR has verified from third party documents that Butowsky used those email addresses to send relevant and responsive communications

18. Though third-party documents and filings made in the *Aaron Rich Case*, NPR has identified at least four third-party messaging applications that Butowsky used to communicate—Signal, Wickr, Gizmo, and Telegraph.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 8th
day of May, 2020 in Austin, Texas.


LAURA LEE PRATHER